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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 JOHN E. FOLDS,
12 Plaintiff,
13 v.
14 CHRISTOPHER FIELD,
15 Defendant.
16

Case No. 2:12-cv-05762-ODW (MRWx)

**ORDER GRANTING CHRISTOPHER
FIELD'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT [5]**

17 Before the Court is Defendant Christopher Field's Motion to Dismiss Plaintiff
18 John E. Fold's Complaint. (ECF No. 5.) Because the statute of limitations has
19 expired on Plaintiff's sole claim for libel, the Court **GRANTS** Defendant's Motion to
20 Dismiss without leave to amend.

21 Initially, the Court notes that Central District of California Local Rule 7-9
22 requires an opposing party to file an opposition to any motion at least 21 days prior to
23 the date designated for hearing the motion. L.R. 7-9. Additionally, Local Rule 7-12
24 provides that the failure to file an opposition within the deadline "may be deemed
25 consent to the granting . . . of the motion." L.R. 7-12.

26 The hearing on Defendant's motion was set for August 13, 2012. Plaintiff's
27 opposition was therefore due by July 23, 2012. As of the date of this Order, Plaintiff
28 has not filed an opposition, nor any other filing that could be construed as a request

1 for a continuance. Plaintiff's failure to oppose may therefore be deemed consent to
2 the granting of Defendant's Motion. Nevertheless, the Court has carefully considered
3 Defendant's arguments in support and, for the reasons discussed in Defendant's
4 papers (which are briefly recounted below), hereby **GRANTS** Defendant's Motion to
5 Dismiss. The August 13, 2012 hearing on this matter is **VACATED**, and no
6 appearances are necessary.

7 Plaintiff's Complaint asserts a single cause of action against Defendant for
8 libel. Plaintiff specifically contends that "[o]n or about December, 2010 defendant
9 published a 'Post' in [*sic*] www.ripoffreport.com . . . wherein he reported that Plaintiff
10 had committed fraudulent real estate transactions." (Compl. ¶ 3.) But defamation
11 claims in California are subject to a one-year statute of limitations. Cal. Code Civ.
12 Proc. § 340. Further, defamatory statements posted online are subject to the single-
13 publication rule, meaning the statement is considered "published" only when the
14 statement is first made available to the public via the Internet. *E.g.*, *Oja v. U.S. Army*
15 *Corps of Eng'rs*, 440 F.3d 1122, 1133 (9th Cir. 2006); *Traditional Cat Ass'n, Inc. v.*
16 *Gilbreath*, 118 Cal. App. 4th 392, 394 (2004). It is now July 2012—more than a year
17 and a half after Plaintiff contends Defendant first published the allegedly defamatory
18 statement online in December 2010. Plaintiff's libel claim is therefore untimely. For
19 this reason, the Court **DISMISSES** this action **WITH PREJUDICE**.

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21 **IT IS SO ORDERED.**

22
23 July 27, 2012

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25 
26 **HON. OTIS D. WRIGHT, II**
27 **UNITED STATES DISTRICT JUDGE**
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